

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION

DAVID M. RILEY,

Plaintiff,

vs

B. J. ALEXANDER, Glencoe Police Chief,
CAPTAIN HARVEY SCALES, and
ROY HARBIN, Gadsden Narcotics
Division,

Defendants.

CIVIL ACTION NO. 96-S-2021-M

ENTERED

FEB 25 1997

MEMORANDUM OF OPINION

The court has considered the entire file in this action together with the Magistrate Judge's Report and Recommendation, and the affidavit of Roy Harbin,¹ and has reached an independent conclusion that the Magistrate Judge's Report and Recommendation is due to be adopted and approved. The court hereby adopts and approves the findings and recommendation of the Magistrate Judge as the findings and conclusions of the court. In accord with the recommendation, the defendants' motion for summary judgment is due to be granted and this complaint is due to be dismissed on the plaintiff's claim that the defendants verbally harassed him; summary judgment is due to be denied

¹ Although the affidavit of Roy Harbin was not filed until February 5, 1997, five days after the report and recommendation was entered, Harbin's affidavit has been considered and it is concluded that the affidavit does not change the outcome of the claims against Harbin at the summary judgment stage.

on the plaintiff's assault claims against defendants Alexander and Harbin. An appropriate order will be entered.

DONE, this 24th day of February, 1997.



C. LYWOOD SMITH, JR.,
UNITED STATES DISTRICT JUDGE